

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN W. BARRY, JR.,

Defendant.

Hon.

Case No.

CR# 20-744
(RBK)

18 U.S.C. § 371

18 U.S.C. § 7206(2)

26 U.S.C. § 7212(a)

26 U.S.C. § 7203

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Camden, charges:

GENERAL ALLEGATIONS

At times relevant to this Indictment:

Introduction

1. Defendant JOHN W. BARRY, JR. resided in Pemberton, New Jersey.
2. Co-Conspirator A ("CC-A") resided in Covington, Georgia.
3. Co-Conspirator B ("CC-B") resided in Charlotte, North Carolina.
4. Co-Conspirator C ("CC-C") resided in Virginia.
5. Co-Conspirator D ("CC-D") resided in Brooklyn, New York.
6. The Internal Revenue Service ("IRS") was an agency of the Department of the Treasury, a department of the United States of America, which was responsible for administering and enforcing the tax laws of the United States.
7. IRS Form 1099-MISC was an information return that individuals or entities were required to file directly with the IRS to report payment of income to another person above a

threshold amount made in the course of their trade or business. IRS Form 1099-MISC was also used to report the amount of federal income tax withheld from the income and paid over to the IRS by the payer of income.

The “Mortgage Recovery” Tax Fraud Scheme

8. Defendant BARRY and his co-conspirators promoted and executed a scheme to defraud the United States by assisting client taxpayers in obtaining the payment of fraudulent claims for tax refunds from the IRS. Defendant BARRY and his co-conspirators referred to their scheme as a “mortgage recovery” program.

9. Defendant BARRY recruited clients by telling them, in part, that they could reduce or eliminate their mortgage debt by obtaining large federal tax refunds premised upon the existence of such mortgage debt.

10. Defendant BARRY and his co-conspirators obtained from clients’ mortgage statements and related documentation that contained, among other information, the name of the financial institution holding the client’s mortgage, the amount of the outstanding debt, the note reflecting the debt, and the social security numbers of clients.

11. Using this mortgage information, defendant BARRY, with the assistance of other co-conspirators, prepared and caused to be prepared false and fraudulent IRS Forms 1099-MISC. The forms falsely claimed that the client’s mortgage lender or mortgage processing company, which had debt owed to it by the client, actually paid the client income. In truth, the clients received no such payments or income from their mortgage lenders.

12. The Forms 1099-MISC that defendant BARRY and his co-conspirators prepared and caused to be prepared also falsely claimed that the financial institutions withheld and paid over to the IRS substantial taxes from the purported amounts they paid out to the clients. In fact,

the claimed tax withholdings were bogus as no taxes were ever withheld from the fictitious income, nor were any taxes paid over to the IRS.

13. Defendant BARRY, with the aid and assistance of his co-conspirators, caused to be directly filed with the IRS the false and fraudulent Forms 1099-MISC.

14. These Forms 1099-MISC were prepared and filed without the knowledge or authority of the financial institutions in whose names the forms were purportedly issued.

15. Defendant BARRY, and his co-conspirators, then used the false IRS Forms 1099-MISC as the basis for preparing false federal income tax returns for clients.

16. Defendant BARRY directed clients to use a tax return preparer involved in the scheme, CC-A, for the preparation and filing of their individual income tax returns and amended individual income tax returns, IRS Forms 1040 and 1040X. The tax return preparer used the Forms 1099-MISC, as well as other wage, income, and tax information provided by clients, to prepare the Forms 1040 and 1040X. As a result of the substantial payments and tax withholdings listed on the Forms 1099-MISC and claimed on the IRS Forms 1040 and 1040X, defendant BARRY and his co-conspirators were able to engineer substantial tax refund claims for clients.

17. Defendant BARRY sent and caused to be sent to clients the prepared tax returns, directing the clients to sign the returns and file them with the IRS. To conceal the scheme and the identity of its promoters, the prepared returns falsely and fraudulently claimed that the returns had been "self-prepared" by the clients rather than by defendant BARRY and his co-conspirators.

18. As a result of these false and fraudulent tax return filings, the IRS issued tax refund checks to the clients, which the clients then deposited into their bank accounts.

19. Defendant BARRY directed clients to pay him fees from the tax refund proceeds. The fees were typically between approximately 20 and 35 percent of the tax refund obtained. Defendant deposited the fee payments into bank accounts he controlled.

20. Defendant BARRY, as a sub-promoter of the mortgage recovery scheme, used a portion of the fees he received to pay fees and commissions to co-conspirators, including CC-B. Defendant also worked with other sub-promoters in the scheme, including CC-C and CC-D, who in turn paid defendant BARRY fees.

21. It was further part of the scheme that defendant BARRY also used the fraudulent mortgage recovery program for himself. Defendant BARRY caused false and fraudulent IRS Forms 1099-MISC and 1040 to be prepared and filed in his name, claiming a \$103,337 tax refund for the 2014 tax year.

22. By in or about April 2016, the IRS opened investigations concerning false refund claims submitted by defendant BARRY and the clients, and began efforts to collect the refunds issued. Defendant BARRY was aware of these IRS actions and proceedings.

23. In response to IRS contacts and collection activities, defendant BARRY and his co-conspirators supplied clients with false, fraudulent, and frivolous information and documents to provide to the IRS. Defendant BARRY also encouraged clients to deceive the IRS by, among other things, concealing defendant's role in causing the false returns to be filed. Defendant BARRY also fraudulently directed a client to remove funds from bank accounts to evade IRS seizure.

24. As a result of the scheme, based on the false and fraudulent representations defendant BARRY caused his clients to make, and that he made on his own false tax return, the IRS issued tax refunds totaling approximately more than \$3,000,000.

COUNT 1
(Conspiracy to Defraud the United States)

25. The factual allegations contained in paragraphs 1 through 24 of this Indictment are incorporated and re-alleged.

The Conspiracy and Its Objects

26. From at least in or about March 2015 and continuing through at least in or about 2016, in the District of New Jersey and elsewhere,

JOHN W. BARRY, JR.,

the defendant, together with CC-A, CC-B, CC-C, and CC-D, did unlawfully, voluntarily, intentionally and knowingly combine, conspire, confederate and agree with each other and with others known and unknown to the Grand Jury to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment, and collection of the revenue, *to wit*, federal income taxes.

Manner and Means

27. It was part of the conspiracy that defendant BARRY, and his co-conspirators, would and did:

- a. Recruit clients as part of their mortgage recovery program to fraudulently obtain tax refunds;
- b. Generate and cause to be filed IRS Forms 1099-MISC that falsely reported, among other false items, large tax withholdings that never existed;
- c. Cause to be filed individual income tax returns and amended income tax returns of clients that falsely and fraudulently made claims for large tax refunds;

- d. Cause to be transmitted to clients United States Treasury Checks and other payments obtained by means of false claims for tax refunds;
- e. Direct clients to pay defendant BARRY substantial fees for his services based, in part, on a percentage of the tax refund received;
- f. Transmit a portion of the fees defendant BARRY received from his clients to his co-conspirators to compensate them for their roles in the scheme;
- g. Work with other promoters and co-conspirators, and direct that they pay defendant BARRY fees;
- h. Cause to be filed false and fraudulent IRS Forms 1099-MISC and 1040 in defendant BARRY's own name, in which he fraudulently claimed a substantial tax refund; and
- i. Attempt to impair, impede, and obstruct IRS investigations and collection activity concerning the fraudulently-obtained tax refunds issued to clients by, among other things, encouraging clients to provide the IRS false, fraudulent, and frivolous information concerning the mortgage recovery program and defendant BARRY's involvement in it.

Overt Acts

28. In furtherance of the conspiracy and to affect the illegal objects thereof, defendant and his co-conspirators committed and caused to be committed the following overt acts, among others, in the District of New Jersey, and elsewhere:

29. On or about the dates set forth below, defendant BARRY and other co-conspirators filed and caused to be filed with the IRS false and fraudulent IRS Forms 1099-MISC, for tax year 2014, purportedly filed by financial institutions, and which Forms reported

the false tax withholding amounts set forth below for the clients, as identified by their initials, set forth below:

Overt Act	Client	Filing Date	False Tax Withholdings
a.	Client LK	10/08/2015	\$256,789
b.	Client CK	12/03/2015	\$419,834
c.	Client CT	12/31/2015	\$165,210
d.	Client NH	12/31/2015	\$334,133
e.	Client GD	12/31/2015	\$312,533
f.	Client SR	12/31/2015	\$115,510
g.	Client RR	08/27/2015	\$58,337
h.	Client JH	01/07/2016	\$1,120,146
i.	Client JP	12/03/2015	\$1,204,851
j.	Client CG	12/31/2015	\$500,164

30. On or about the dates set forth below, defendant BARRY and his co-conspirators filed and caused to be filed with the IRS the false and fraudulent IRS Forms set forth below for tax year 2014, which Forms claimed the false refund amount set forth below on behalf of the clients set forth below:

Overt Act	Client	Form	Approximate Filing Date	False Claim
a.	Client LK	1040X	9/26/2015	\$179,231
b.	Client CK	1040	01/04/2016	\$303,780
c.	Client CT	1040X	12/30/2015	\$63,500
d.	Client NH	1040X	11/4/2015	\$238,746

e.	Client GD	1040X	10/20/2015	\$214,965
f.	Client SR	1040X	12/30/2015	\$84,335
g.	Client RR	1040	4/4/2015	\$33,908
h.	Client JH	1040X	12/21/2015	\$742,974
i.	Client JP	1040X	11/20/2015	\$785,285
j.	Client CG	1040X	12/16/2015	\$338,574
k.	Client TD	1040X	12/12/2015	\$131,408

31. On or about March 30, 2015, defendant BARRY and CC-D filed and caused to be filed a false and fraudulent Form 1040, for the 2014 tax year, in the name of CC-D, fraudulently asserting a claim for refund totaling \$851,908.

32. On or about April 15, 2015, defendant BARRY filed and caused to be filed with the IRS a false and fraudulent Form 1040, for the 2014 tax year, in his own name, fraudulently asserting a claim for refund totaling \$103,337.

33. On or about the dates listed below, defendant BARRY deposited and caused to be deposited into a bank account he controlled the fees from proceeds of fraudulently-obtained tax refunds paid to him, at his direction, in the amounts set forth below by the clients set forth below:

Overt Act	Client	Date of Check	Fee Amount
a.	Client LK	3/1/2016	\$39,246
b.	Client CK	1/21/2016	\$39,256
c.	Client CK	2/19/2016	\$7,500
d.	Client CT	3/4/2016	\$11,724
e.	Client NH	2/17/2016	\$48,080
f.	Client GD	3/4/2016	\$44,000
g.	Client SR	2/20/2016	\$10,000
h.	Client TD	2/25/2016	\$15,000
i.	Client TD	2/25/2016	\$15,000

34. On or about the approximate dates listed below, defendant BARRY wired or caused to be wired funds in the amounts referenced below to bank accounts controlled by CC-B:

Overt Act	Date	Amount
a.	9/4/2015	\$11,400
b.	9/16/2015	\$2,500
c.	9/23/2015	\$5,000
d.	10/1/2015	\$5,000
e.	10/15/2015	\$9,000
f.	11/2/2015	\$25,000
g.	11/19/2015	\$9,000
h.	12/1/2015	\$9,000
i.	1/25/2016	\$11,500
j.	2/9/2016	\$2,500
k.	2/29/2016	\$43,000
l.	3/2/2016	\$18,000
m.	3/11/2016	\$9,000
n.	3/28/2016	\$12,500
o.	4/7/2016	\$9,000

35. On or about the approximate dates listed below, defendant CC-D paid and transferred funds in the amounts referenced below to defendant BARRY:

Overt Act	Date	Amount
a.	4/15/2015	\$5,000

b.	10/26/2015	\$84,500
c.	11/7/2015	\$5,000
d.	11/12/2015	\$9,000
e.	11/13/2015	\$9,000
f.	11/18/2015	\$2,000
g.	11/23/2015	\$2,500
h.	11/30/2015	\$4,000
i.	3/21/2016	\$7,000
j.	3/23/2016	\$7,000
k.	3/24/2016	\$6,500

36. On or about April 4, 2016, CC-C paid to defendant BARRY \$120,142.

All in violation of Title 18, United States Code, Section 371.

COUNTS 2 THROUGH 12

(Aiding and Assisting False Tax Returns)

37. The factual allegations contained in paragraphs 1 through 24 of this Indictment are incorporated and re-alleged.

38. On or about the dates set forth below, in the District of New Jersey and elsewhere, the defendant,

JOHN W. BARRY, JR.,

a resident of Pemberton, New Jersey, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, and Amended U.S. Individual Income Tax Returns, Forms 1040 and

1040X, for the 2014 tax year, on behalf of defendant BARRY and other individuals as set forth below. The tax returns were false and fraudulent as to material matters, in that the returns, among other false items, substantially overstated income and tax payments to the IRS, as further set forth in the chart below, all in order to fraudulently assert substantial claims for tax refunds; whereas, as defendant BARRY then and there knew, he and the other individuals he aided and assisted in causing to be prepared and filed false and fraudulent tax returns received substantially less in income, and paid substantially less in tax withholdings, than that which defendant BARRY caused to be reported on the IRS Forms 1040 and 1040X as set forth in the chart below:

Count	Taxpayer	Tax Form Period	Date Filed (Approx.)	False Item(s)
2	John Barry	1040	04/15/2015	a. <u>Line 21</u> : other income, \$375,509 b. <u>Line 64</u> : federal income tax withheld, \$220,685
3	Client GD	1040X	10/20/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$376,630 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$317,955 c. <u>Line 21</u> , attached 1040: other income, \$312,534 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$317,955
4	Client NH	1040X	11/4/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$405,982 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$338,204 c. <u>Line 21</u> , attached 1040: other income, \$334,134 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$338,204
5	Client CK	1040	10/26/2015	a. <u>Line 21</u> : other income, \$419,834 b. <u>Line 64</u> : federal income tax withheld, \$419,834
6	Client LK	1040X	9/26/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$306,853 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$262,572

				c. <u>Line 21</u> , attached 1040: other income, \$256,790 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$262,572
7	Client RR	1040	4/4/2015	a. <u>Line 21</u> : other income, \$102,037 b. <u>Line 64</u> : federal income tax withheld, \$63,027
8	Client SR	1040X	12/30/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$174,406 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$124,317 c. <u>Line 64</u> , attached 1040: federal income tax withheld, \$124,317
9	Client CT	1040X	12/30/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$458,763 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$189,199 c. <u>Line 21</u> , attached 1040: other income, \$297,811 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$189,199
10	Client CG	1040X	12/16/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$552,912 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$506,565 c. <u>Line 21</u> , attached 1040: other income, \$500,165 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$506,565
11	Client JH	1040X	12/21/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$3,276,435 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$1,990,101 c. <u>Line 21</u> , attached 1040: other income, \$3,242,101 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$1,990,101
12	Client JP	1040X	11/20/2015	a. <u>Line 1(c)</u> , 1040X: adjusted gross income, \$1,294,112 b. <u>Line 12(c)</u> , 1040X: federal tax withheld, \$1,224,452 c. <u>Line 21</u> , attached 1040: other income, \$1,204,851 d. <u>Line 64</u> , attached 1040: federal income tax withheld, \$1,224,452

All in violation of Title 26, United States Code, Section 7206(2).

COUNT 13
(Corruptly Endeavoring to Obstruct the IRS)

39. The factual allegations contained in paragraphs 1 through 24 of this Indictment are incorporated and re-alleged.

40. In or about 2016, in the District of New Jersey and elsewhere, the defendant,

JOHN W. BARRY, JR.,

in response to pending IRS collection proceedings of which he was aware, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws of the United States by, among other things: (a) providing to clients, and causing to be provided to clients, false, fictitious, and fraudulent information to be presented to the IRS, including, but not limited to, false, fictitious, and fraudulent information regarding the mortgage recovery program and defendant BARRY's involvement therein; and (b) instructing a client to remove money from his bank account in order to prevent the IRS from collecting on levies against the client.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT 14
(Failure to File Income Tax Return)

41. The factual allegations contained in paragraphs 1 through 24 of this Indictment are incorporated and re-alleged.

42. During the calendar year 2016, the defendant,

JOHN W. BARRY, JR.,

who was a resident of Pemberton, New Jersey, had and received gross income in excess of \$20,700. By reason of such gross income, he was required by law, following the close of the calendar year 2016 and on or before April 18, 2017, to make an income tax return to the Internal Revenue Service stating specifically the items of his gross income and any deductions and

credits to which he was entitled. Well knowing and believing all of the foregoing, defendant BARRY did willfully fail, on or about April 18, 2017, in the District of New Jersey and elsewhere, to make an income tax return.


All in violation of Title 26, United States Code, Section 7203.

A TRUE BILL

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